



National Headquarters
132 West 43 Street
New York, NY 10036
(212) 944-9800

Norman Dorsen
PRESIDENT

Ira Glasser
EXECUTIVE DIRECTOR

Eleanor Holmes Norton
CHAIR
NATIONAL ADVISORY COUNCIL

Colleen O'Connor
DIRECTOR OF
PUBLIC EDUCATION

TO: Affiliate Directors
FROM: Colleen O'Connor
DATE: November 16, 1989
Re: Smoking Issues

=====

The "Great American Smokeout," a campaign to persuade Americans to give up smoking, is again upon us, and the ACLU will inevitably get questions about the civil liberties implications of policies affecting the rights of smokers. To help you respond to questions from the press and public, remember the following:

The ACLU does not broadly defend the right of smokers to light up in situations where the smoke affects other people, and we have not opposed laws or workplace rules that protect other people, such as laws banning smoking in elevators or closely shared workspaces. Similarly, the ACLU did not oppose recent legislation banning smoking on airplanes.

But we oppose the use of pre-employment screening that would exclude smokers from jobs, on the ground that off-the-job activities are not valid criteria. Several state legislatures and city councils have considered such bans, but few have passed. Oregon and Virginia have laws expressly prohibiting discrimination against smokers, as do some municipalities. We support those laws, because it would be discriminatory not to hire someone because they smoked at home. *

As you know, the ACLU argued in the past that the federal government should not have banned cigarette advertising on any media, on grounds that such bans violate the First Amendment. *

Finally, it is true that the ACLU has in the past received a grant from Philip Morris earmarked for support of our workers' rights efforts. There was no quid pro quo for this grant, and we made it explicit in advance to Philip Morris what our positions were (not all of which they liked, I might add) and that we would continue to take those positions regardless of whether we got the grant or not. As an examination of our booklet, Liberty at Work, shows and the subsequent work of the Task Force under Lew Maltby, it would be hard to argue that our work in this area has much to do with advancing Philip Morris' commercial interests. We should not apologize for taking their support, anymore than we would for taking Playboy's support for our First Amendment work, or trade union support for work beneficial to their members.

2073440592